IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL FARRINGTON, Plaintiff,	: : :	CIVIL ACTION
v. COUNTY OF BUCKS, PA, et. al., Defendants	: : :	No. 17-5826
ORDER		
AND NOW, this	_ day of	, 2019, upon
consideration of Plaintiff's Motion to Compel Payment of Settlement Funds and the		
exhibits thereto, and upon a finding that the payment was not made within twenty (20)		
days of receipt of the executed release in the above captioned action, it is ORDERED		
that, in addition to the settlement funds of \$355,000.00, pay forthwith interest at the rate		
of 6.5% on the aforementioned settlement funds from the twenty-first day to the date of		
the delivery of the settlement funds, together with \$450 in attorneys' fees.		
		BY THE COURT:
		J.,

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL FARRINGTON,

CIVIL ACTION

Plaintiff.

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V

COUNTY OF BUCKS, PA, et. al.,

Defendants

No. 17-5826

PLAINTIFF'S MOTION TO COMPEL PAYMENT OF SETTLEMENT FUNDS

- The above captioned action was amicably resolved for a total of \$355,000.00 during a Settlement Conference before Magistrate Judge Timothy Rice on September 23, 2019
- 2. Plaintiff executed the Release prepared by defense counsel on behalf of all remaining defendants on October 8, 2019. A copy of the executed Release is attached as Exhibit "A."
- 3. Pa.R.C.P. 229.1(c) states, in relevant part, "If a plaintiff and a defendant have entered into an agreement of settlement, the defendant shall deliver the settlement funds to the attorney for the plaintiff ... within twenty calendar days from receipt of an executed release." No modification of this Rule was incorporated in the Agreement of Settlement.
- 4. Plaintiff's executed Release was delivered to defense counsel by email on October 8, 2019. A copy of the email attaching the executed Release is attached as

Exhibit "B."

- 5. The original executed Release was mailed to defense counsel by first class mail on October 8, 2019. A copy of said enclosure letter is attached as Exhibit "C."
- 5. Pa.R.C.P. 229.1(c) states, in relevant part, "If a plaintiff and a defendant have entered into an agreement of settlement, the defendant shall deliver the settlement funds to the attorney for the plaintiff ... within twenty calendar days from receipt of an executed release."
- 6. Pursuant to Pa.R.C.P. 126, "The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties."
- 7. Reading Rules 229.1, 440(b) and 126 together, the settlement draft was due to be delivered to counsel for plaintiff by Monday, October 28, 2019.
- 8. Even allowing the customary "three days for mailing," the settlement funds should have been delivered no later than Thursday, October 31, 2019.
- 9. It is now almost two months since Plaintiff's executed Release was mailed to defense counsel.
- 10. Pa.R.C.P. 229.1(e) states, in relevant part, "A plaintiff seeking to impose sanctions on the defendant shall file an affidavit with the court attesting to non-payment."

- 11. The applicable interest rate for purposes of this Affidavit is 6.5% (Prime rate on January 2, 2019 plus one percent). See Pa.R.C.P. 238, Addendum to Explanatory Comments, a copy of which is attached as Exhibit "D."
- 12. At the applicable interest rate, interest is calculated at \$63.22/day as follows:

$$(\$355,000.00 \times .065)/365 = \$63.22$$

13. My usual and customary hourly fee is \$450/hour.

WHEREFORE, it is respectfully requested that this Honorable Court enter the attached Order directing PrimeCare Medical, Inc and their insurance company, Beazley USA Services Inc., pay forthwith interest at the rate of 6.5% (\$63.22/day) on the aforementioned settlement funds from October 31, 2019 to the date of delivery of the settlement funds, together with \$450 in attorneys' fees.

Respectfully submitted,

HARRY J. OXMAN, ESQUIRE

PA ID: 13116

Oxman Goodstadt &Kuritz, PC 1015 Chestnut St., Ste. 1500

Philadelphia, PA 19107

Attorney for Plaintiff

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MICHAEL FARRINGTON,

CIVIL ACTION

Plaintiff,

:

v. COUNTY OF BUCKS, PA, et. al.,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Plaintiff's Motion to Compel Payment of Settlement Funds was served upon the following counsel by ECF filing on the below date.

John R. Ninosky, Esquire Marshall, Dennehey, Warner Coleman & Goggin 100 Corporate Center Drive Suite 201 Harrisburg, PA 17011 JRNinosky@MDWCG.com

/s/ Harry J. Oxman

HARRY J. OXMAN, ESQUIRE PA ID: 13116 Oxman Goodstadt &Kuritz, PC 1015 Chestnut St., Ste. 1500 Philadelphia, PA 19107 Attorney for Plaintiff

Date: 12/4/19